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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

_____)	
UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No.
)	
)	
GOULD ELECTRONICS INC.)	
)	
Defendant.)	
_____)	

COMPLAINT

The United States of America, by authority of the Attorney General of the United States and through the undersigned attorneys, acting at the request of the Administrator of the United States Environmental Protection Agency ("EPA"), files this complaint and alleges

as follows:

NATURE OF THE ACTION

1. This is a civil action under Sections 107 and 113(b) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. §§ 9607 and 9613(b). The United States seeks to recover costs incurred and to be incurred in conducting actions in response to the release or threatened release of hazardous substances at or from the Gould Battery/Magic Marker Superfund Site (the "Site") which is located in Trenton, New Jersey.

JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this action and over the parties pursuant to 42 U.S.C. §§ 9607 and 9613(b), and 28 U.S.C. §§ 1331 and 1345. Venue is proper in the District Court of New Jersey pursuant to Section 113(b) of CERCLA, 42 U.S.C. § 9613(b), and 28 U.S.C. § 1391, because the claims arose in this district, and the release or threatened release of hazardous substances occurred in this district.

DEFENDANT

3. Gould Electronics Inc. ("Gould Electronics") is incorporated under the laws of Arizona.

4. Upon information and belief, in or about 1994, Gould, Inc., transferred its assets and liabilities to Gould Electronics, and therefore, for the purposes of this action, Gould Electronics is a successor to the liabilities of Gould, Inc., with respect to the Site.

GENERAL ALLEGATIONS

5. The Site is located at 467 Calhoun Street in Trenton, New Jersey. It encompasses

approximately 7 acres and is located in a highly developed, urbanized area of Trenton.

6. Gould, Inc. owned the Site from 1947 to 1980 and operated a facility at the Site from 1947 to 1979.

7. Gould, Inc. manufactured lead-acid batteries at the Site from 1947 to 1979. Upon information and belief, the process involved the production of cells, each composed of a series of positive and negative electrodes coated with lead oxide. The oxide was applied in the form of a paste to a lead grill (plate). The complete assembly of plates was placed in an electrolyte of dilute sulfuric acid to form a single cell, several of which were assembled in series to make a battery.

8. During the time that Gould, Inc. owned and operated the facility at the Site, hazardous substances, including lead, were disposed of at the Site.

9. At the request of the New Jersey Department of Environmental Protection, EPA began a removal action at the Site on September 16, 1997. EPA removed from the Site, and disposed of, various lead-containing wastes such as lead debris, neutralization vats, lead dust, pigment residue and lead oxide rinsate. EPA also removed from the Site, and disposed of, water-based dyes, flammable substances, pigments, and halogenated flammable substances.

10. Hazardous substances as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), including lead, have been detected at the Site.

11. Gould Electronics is a person within the meaning of Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

12. The Site is a facility within the meaning of Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

13. Releases, within the meaning of Section 101(22) of CERCLA, 42 U.S.C. § 9601(22), and threatened releases, of hazardous substances at or from the Site have occurred.

14. The releases and threatened releases of hazardous substances at or from the Site have caused the United States to incur costs of response not inconsistent with the National Contingency Plan, 40 C.F.R. Part 300, of more than \$400,000.

CLAIM FOR RELIEF

RESPONSE COSTS UNDER CERCLA SECTION 107(a)

15. Paragraphs 1-14, inclusive, are realleged and incorporated herein by reference.

16. Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), provides:

Notwithstanding any other provision or rule of law, and subject only to the defenses set forth in subsection (b) of this section--

- (1) the owner and operator of a vessel or a facility,
- (2) any person who at the time of disposal of any hazardous substance owned or operated any facility at which such hazardous substances were disposed of,

* * *

from which there is a release, or a threatened release which causes the incurrence of response costs, of a hazardous substance, shall be liable for--

(A) all costs of removal or remedial action incurred by the United States Government . . . not inconsistent with the national contingency plan; . . .

17. Gould, Inc. owned and operated the Site during a period in which hazardous substances were disposed at the Site.

18. Gould, Inc. is a person who was the owner or operator of a facility from which there was a release, or a threatened release of hazardous substances which caused the incurrence of response costs.

19. Gould Electronics has succeeded to the liabilities of Gould, Inc. at the Site.

Therefore, Gould Electronics is liable to the United States, under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), for the costs incurred and to be incurred by the United States in response to the release or threatened release of hazardous substances at or from the Site.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, the United States of America, prays that the Court:

1. Enter judgment against Gould Electronics and in favor of the United States, for unreimbursed response costs incurred and to be incurred by the United States in connection with the Site;
2. Award the United States the costs of bringing this action; and
3. Grant such other and further relief as the Court deems appropriate.

Respectfully submitted,

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By:

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